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SENATE BILL 569

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Gerald P. Ortiz y Pino

AN ACT

RELATING TO HEALTH CARE FOR MINORS; AMENDING THE UNIFORM
HEALTH-CARE DECISIONS ACT REGARDING MINORS FOURTEEN YEARS OF
AGE OR OLDER WHO ARE NOT EMANCIPATED.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 24-7A-17 NMSA 1978 (being Laws 1995,
Chapter 182, Section 17) is amended to read:

"24-7A-17. SHORT TITLE.--~~[Sections 1 through 17 of this
act]~~ Chapter 24, Article 7A NMSA 1978 may be cited as the
"Uniform Health-Care Decisions Act"."

Section 2. Section 24-7A-6.1 NMSA 1978 (being Laws 1997,
Chapter 168, Section 13) is amended to read:

"24-7A-6.1. LIFE-SUSTAINING TREATMENT FOR UNEMANCIPATED
MINORS.--

A. Except as otherwise provided by law, a parent or

underscoring material = new
[bracketed material] = delete

1 guardian of an unemancipated minor may make that minor's
2 health-care decisions.

3 B. A parent or guardian of an unemancipated minor
4 shall have the authority to withhold or withdraw life-
5 sustaining treatment for the unemancipated minor, subject to
6 the provisions of this section and the standards for surrogate
7 decision-making for adults provided for in the Uniform Health-
8 Care Decisions Act.

9 C. Subject to the provisions of Subsection B of
10 this section, if an unemancipated minor has capacity sufficient
11 to understand the nature of that unemancipated minor's medical
12 condition, the risks and benefits of treatment and the
13 contemplated decision to withhold or withdraw life-sustaining
14 treatment, that unemancipated minor shall have the authority to
15 withhold or withdraw life-sustaining treatment.

16 D. For purposes of Subsection C of this section, a
17 determination of the mental and emotional capacity of an
18 unemancipated minor shall be determined by two qualified
19 health-care professionals, one of whom shall be the
20 unemancipated minor's primary physician and the other of whom
21 shall be a physician that works with unemancipated minors of
22 the minor's age in the ordinary course of that physician's
23 health-care practice. If the unemancipated minor lacks
24 capacity due to mental illness or developmental disability, one
25 of the qualified health-care professionals shall be a person

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underscored material = new
[bracketed material] = delete

1 whose training and expertise aid in the assessment of
2 functional impairment.

3 E. If the unemancipated minor's primary physician
4 has reason to believe that a parent or guardian of an
5 unemancipated minor, including a non-custodial parent, has not
6 been informed of a decision to withhold or withdraw life-
7 sustaining treatment, the primary physician shall make
8 reasonable efforts to determine if the uninformed parent or
9 guardian has maintained substantial and continuous contact with
10 the unemancipated minor and, if so, shall make reasonable
11 efforts to notify that parent or guardian before implementing a
12 decision.

13 F. If there is disagreement regarding the decision
14 to withhold or withdraw life-sustaining treatment for an
15 unemancipated minor, the provisions of Section 24-7A-11 NMSA
16 1978 shall apply.

17 ~~[G. For purposes of this section, "unemancipated~~
18 ~~minor" means a person at or under the age of fifteen.]"~~

19 Section 3. A new Section 24-7A-6.2 NMSA 1978 is enacted
20 to read:

21 "24-7A-6.2. [NEW MATERIAL] CONSENT TO HEALTH CARE FOR
22 CERTAIN MINORS FOURTEEN YEARS OF AGE OR OLDER.--

23 A. An unemancipated minor fourteen years of age or
24 older who has capacity to consent may give consent for
25 medically necessary health care; provided that the minor is:

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1 (1) living apart from the minor's parents or
2 legal guardian;

3 (2) the parent of a child; or

4 (3) in a health-care provider's judgment, in
5 danger of suffering serious health consequences if health care
6 services are not provided.

7 B. For purposes of this section, "medically
8 necessary health care" means clinical and rehabilitative,
9 physical, mental or behavioral health services that are:

10 (1) essential to prevent, diagnose or treat
11 medical conditions or that are essential to enable an
12 unemancipated minor to attain, maintain or regain functional
13 capacity;

14 (2) delivered in the amount and setting with
15 the duration and scope that is clinically appropriate to the
16 specific physical, mental and behavioral health-care needs of
17 the minor;

18 (3) provided within professionally accepted
19 standards of practice and national guidelines; and

20 (4) required to meet the physical, mental and
21 behavioral health needs of the minor, but not primarily
22 required for convenience of the minor, health-care provider or
23 payer.

24 C. The consent of the unemancipated minor to
25 examination or treatment pursuant to this section shall not be

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underscoring material = new
~~[bracketed material] = delete~~

1 disaffirmed because of minority.

2 D. The parent or legal guardian of an unemancipated
3 minor who receives medically necessary health care is not
4 liable for payment for those services unless the parent or
5 legal guardian has consented to such medically necessary health
6 care; provided that the provisions of this subsection do not
7 relieve a parent or legal guardian of liability for payment for
8 emergency health care provided to an unemancipated minor.

9 E. Nothing in this section shall otherwise limit an
10 unemancipated minor's rights."